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MEMO ENDORSED

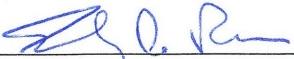
May 18, 2021

BY ECF

Hon. Edgardo Ramos
United States District Judge
Southern District of New York
40 Foley Square
New York, NY 10007

Defendants' request for leave to file under seal the certified copy of the administrative record is granted.

It is SO ORDERED.


Edgardo Ramos, U.S.D.J.
Dated: 05/18/2021
New York, New York

Re: *T.F. and S.F. individually, and on behalf of I.F. v. New York City Department of Education and Richard A. Carranza, in his official capacity as the Chancellor of the New York City Department of Education, 20-CV-10733 (ER) (KHP)*

Dear Judge Ramos:

I am an Assistant Corporation Counsel in the Office of the Corporation Counsel of the City of New York, James E. Johnson, attorney for the Defendants New York City Department of Education (DOE) and former DOE Chancellor Richard A. Carranza (collectively, "Defendants") in the above-referenced action. I write, with the consent of Plaintiffs' counsel and pursuant to Rule 5.2(d) of the Federal Rules of Civil Procedure, to respectfully request leave to file under seal the certified copy of the administrative record underlying this action, which is brought pursuant to the Individuals with Disabilities Education Act (IDEA).

The administrative record in this action is replete with confidential information, including the name, date of birth, and other pedigree information of the minor student, I.F., on whose behalf this action is brought. This information should not be made public in compliance with Rule 5.2(a). *See Fed. R. Civ. P. 5.2(a).*

Additionally, the record contains "personally identifiable information" describing I.F.'s medical history and disabilities, in addition to I.F.'s educational records and information detailing the student's educational progress and history. These materials are confidential under the IDEA and the Family Educational Rights and Privacy Act (FERPA). 34 C.F.R. § 99.3 (defining personally identifiable information under FERPA), § 300.32 (including a "list of

personal characteristics or other information that would make it possible to identify the child with reasonable certainty” as personally identifiable information under IDEA). Additionally, as the underlying administrative proceeding is presumptively closed to the public pursuant to 34 C.F.R. § 300.512(c)(2), all documents recounting the proceeding should themselves be deemed confidential. *Id.* (permitting parents to choose whether a hearing is open or closed to the public). “For these reasons, courts in this Circuit have routinely allowed administrative records underlying IDEA cases to be filed under seal to protect the privacy interests of minor child plaintiffs.” *L.B. v. New York City Dept of Ed*, 15-CV-3176, 2015 U.S. Dist. LEXIS 127081, *2 (S.D.N.Y. Sept. 22, 2015)(citing *C.L. v. Scarsdale Union Free Sch. Dist.*, 913 F. Supp. 2d 26, 30 (S.D.N.Y. 2012); *A.M. ex rel. Y.N. v. New York City Dep’t of Educ.*, 964 F. Supp. 2d 270, 277 (S.D.N.Y. 2013)). Therefore, Defendants believe that this information is appropriately filed under seal pursuant to *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 120 (2d Cir. 2006) (Countervailing factors weighing in favor of sealing include, *inter alia*, the privacy interests of those resisting disclosure).

Accordingly, Defendants submit that the *Lugosch* standard is met as protecting the privacy interests of the minor student in keeping confidential that child’s education and medical history constitutes a “compelling reason” to seal the record and outweighs the public’s interest in access. *Lugosch*, 435 F.3d at 121 (countervailing factors include, among others, the privacy interests of those resisting disclosure). As such, Defendants respectfully request, with consent of Plaintiffs’ counsel, leave to file the certified administrative record in this action under seal.

Thank you for your consideration of this request.

Respectfully submitted,

s/
Carolyn E. Kruk
Assistant Corporation Counsel

cc: Lauren A. Baum (by ECF)
Plaintiffs’ counsel